

United States District Court
District of South Carolina

Ricky Nichols, #300177;)	C/A No. 3:04-23059-CMC-JRM
)	
Plaintiff;)	
)	
vs.)	ORDER
)	
Dr. Hitcherson; and Warden Burt;)	
)	
Defendants.)	
)	

This is a civil rights action. The Clerk of Court may continue to file pleadings as of the date they are received for docketing.¹

The original complaint was filed on November 23, 2004, and named a single defendant. Service of process on that defendant has been attempted, but has failed. On February 10, 2005, the undersigned filed a paper which has been deemed a Motion to Amend his complaint by adding the Warden of Lieber Correctional Institution as a defendant. The Motion was granted. The summons for the new defendant was issued on February 23, 2005. The defendant Warden has been served and has appeared in this action, filing a Motion to Dismiss and an Answer on March 31, 2005.

On April 11, 2005, the plaintiff filed a paper which appears to be another Motion to Amend his complaint by adding more defendants. Although Fed. R. Civ. P. Rule 15(a) does not set forth any specific procedure to obtain leave for the amendment of a pleading, it is widely recognized that the customary practice is to file a motion with a copy of the proposed amended pleading attached. See WRIGHT, CHARLES ALAN, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE & PROCEDURE, § 1485 (3rd ed. 1998), and cases cited therein. Fed. R. Civ. P. 7(b) requires that a motion shall be made in writing and shall state with particularity the grounds for the relief or order sought.

The plaintiff has already amended his complaint once, which he is permitted to do as a matter of right under Fed. R. Civ. P. Rule 15(a). If the plaintiff desires to amend his complaint further, adding parties or allegations, he must file a motion accompanied by a copy of the amended complaint. The motion shall state the reasons for seeking leave to amend and the Amended Complaint (to include all prior allegations and parties) shall be accomplished by completing the attached, blank § 1983 complaint form. The plaintiff shall write the caption listed above and must place the civil action number (Civil Action No. 3:04-23059-CMC-JRM) on any document he submits to this Court pursuant to this Order. The plaintiff shall also complete summons and USM-285 forms for any additional defendants. Blank forms are attached.

¹ – In the event that a limitations issue arises in this action, the plaintiff will have the benefit of the holding in Houston v. Lack, 487 U.S. 266 (1988) under which the "delivery" date in this case is November 15, 2004.

The plaintiff shall serve copies of the motion and the amended complaint upon all the defendants heretofore served in this action pursuant to Fed. R. Civ. P. 5(b). He shall file in this Court a certificate of service as required by Fed. Rul Civ. P. 5(d).

Upon plaintiff's compliance with this order, and receipt of any response to the motion from the present parties defendant, the undersigned shall consider the matter of further amendment to the complaint in this action.

The plaintiff is a *pro se* litigant. **In all future filings with this Court, the plaintiff is directed to write or type text on one side of a sheet of paper only and not to write or type on both sides of any sheet of paper.**² The plaintiff is further instructed not to write to the edge of the paper, but to maintain one inch margins on the top, bottom and sides of each paper submitted. The plaintiff will strictly comply with requirements for "short and plain" statements of claims and defenses in all pleadings under Rule 8 Federal Rules of Civil Procedure (Fed. R. Civ. P.) as well as the requirements for "concise summary," "concise statement" and "brevity" set forth in Local Civil Rule 7.05 of the United States District Court for the District of South Carolina.

The plaintiff's attention is again directed to the following important notice:

TO THE PLAINTIFF:

You are ordered to always keep the Clerk of Court advised **in writing (901 Richland Street, Columbia, South Carolina 29201)** if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this Order, you fail to file something you are required to file within a deadline set by a District Judge or a Magistrate Judge, **your case may be dismissed for violating this Order**. Therefore, if you have a change of address before this case is ended, you must comply with this Order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the court.

Put this Order with your own record of this case so that you will not overlook your duty. If an attorney serves you by mail on behalf of a defendant, you also have a duty to notify that attorney if your address is to be changed for mail purposes.

IT IS SO ORDERED.

s/Joseph R. McCrorey
United States Magistrate Judge

April 14, 2005
Columbia, South Carolina

² – Pursuant to Section 205 of the E-Government Act of 2002, Pub. L. 107-347, December 17, 2002, 111 Stat. 2899, this Court has implemented Electronic Case Filing (ECF). For this purpose, *pro se* filings are scanned to create electronic docket records. Therefore, the use of only one side of a sheet of paper is required.